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Robert M. Zeidman

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ROBERT MARC ZEIDMAN
15565 SWISS CREEK LANE
CUPERTINO, CA 95014

EXAMINER

SCHNURR, JOHN R

ART UNIT

PAPER NUMBER

2421

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/767,819 | Applicant(s) ZEIDMAN, ROBERT M. | |
| | Examiner JOHN R. SCHNURR | Art Unit 2421 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the Amendment After Non-Final Rejection filed 11/17/2008. Claims 1-10 are pending and have been examined.

Response to Arguments

2. Applicant's arguments filed 11/17/2008 have been fully considered but they are not persuasive.

In response to applicant's argument that Williams (US 6,075,971) does not describe or suggest and is not compatible with an incentive system, the examiner respectfully disagrees. Williams clearly teaches providing coupons to users based on user selected television programming (col. 5 line 63 to col. 6 line 5). The user selected programming can be determined via survey or monitoring of the users (col. 2 lines 5-10). Matheny (US 6,766,524) discloses providing, to a user, specific incentives and links to the incentives associated with the amount of the broadcast viewed (col. 3 line 46 to col. 4 line 48).

Claim Rejections - 35 USC § 103

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the 1997 Broadcast of "Schindler's List" on NBC, in view of Matheny et al. (US Pat No 6,766,524), in further view of Blacketter et al. (US Pat No. 7,103,904) and further in view of Williams et al. (US Pat. No. 6,075,971).

In regard to claim 1, the "You Should Know Better, Mr. Spielberg" article provides evidence that it is known in the art of television broadcasting to "allow content to be broadcast without commercial interruption" yet still be sponsored by companies. However, the evidence of the particular species of 'broadcast programming' is silent with respect further providing incentives to viewers to watch.

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In an analogous art pertaining to the field of television, Matheny et al. discloses a system and method to encourage viewers to pay attention to television programs (Col 2, Lines 38-42). The method comprises "receiving a broadcast with embedded information about the broadcast" (i.e. information associated with the received triggers) whereupon "said embedded information [is] provided to allow construction of a viewing record of the broadcast" [271]. The system "extracts and displays content from said broadcast" including content such as broadcast programs, Internet data, etc. (Figure 2; Col 2, Lines 38-55) and further "extract[s]" and "stor[es] said embedded information" derived from the VBI of said broadcast (Col 4, Lines 28-36). The system further "collect[s] viewer information including a user identifier and information indicative of an amount of the broadcast viewed by the viewer, specific incentives and links to the specific incentives being associated with the amount of the broadcast viewed by the viewer" (Figures 2-4 col. 3 line 46 to col. 4 line 48). Finally, the system "provides specific incentives" or rewards to the "viewer based on said viewing record including information indicative of one or more sponsors of the broadcast" (Col 2, Lines 5-7; Col 3, Lines 46-50; Col 4, Lines 14-21). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Matheny et al. with other types of programming including "broadcasts without commercial interruption" for the purpose of providing a means to encourage viewers to pay attention to TV programs.

It is unclear from Matheny et al. whether or not the "embedded information includes information indicative of one or more sponsors of the broadcast" such as a sponsor name. Matheny et al. explicitly incorporates by reference US application serial No. 09/345,223 (now US Pat No. 7,103,904)(Col 5, Lines 20-25). Blackketter et al., in conjunction with its usage of advertising templates teaches that it is known in the art for "embedded information" such as triggers to "include information indicative of one or more sponsors of the broadcast" such as the sponsor name (Col 3, Lines 25-30; Col 5, Lines 13-15). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Matheny et al. using the teachings of Blackketter et al. for the purpose of providing for customization of interactive content in a manner that conserves bandwidth (Blackketter et al.: Col 3, Lines 7-16).

However, the above combination does not specifically teach collecting the viewer information without prompting the user for feedback.

In an analogous art pertaining to the field of television, Williams et al. discloses providing coupons to a network device without prompting the user for feedback (Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Matheny et al. and Blackketter et al. using the teachings of Williams et al. for the purpose of gathering user data without interruption.

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In regard to claim 2, the 'You Should Know Better, Mr. Spielberg' article provides evidence that it is known in the art of television broadcasting to "allow content to be broadcast without commercial interruption" yet still be sponsored by companies. However, the evidence of the particular species of 'broadcast programming' is silent with respect further providing incentives to viewers to watch.

In an analogous art pertaining to the field of television, Methany et al. discloses a system and method to encourage viewers to pay attention to television programs. The method comprises "receiving a broadcast with information about the broadcast embedded into the broadcast at regular time periods, said information including timestamp each identifying the time slice during which the broadcast is received" (Figures 2-3 Col 4, Lines 28-36 and Col 7, Lines 28-30). The system "extract[s] and display[s] content from said broadcast" (Figure 2 Col 2, Lines 48-55 and Col 2, Lines 39-42) "extract[s] said embedded information from said broadcast" the embedded information is extracted from the VBI (Col 4, Lines 28-36). Furthermore the system "increment[s] counters for counting time slices during which broadcasting is received" (Figures 2-4 Col 7, Lines 28-30 and Col 3, Lines 46-50) "stor[es] said embedded information" and "send[s] said embedded information, said counter values and viewer information to a remote computer to allow a viewing time to be determined" (Figures 2 and 4 Col 3, Lines 46-66). The system further "collect[s] viewer information including a user identifier and information indicative of an amount of the broadcast viewed by the viewer, specific incentives and links to the specific incentives being associated with the amount of the broadcast viewed by the viewer" (Figures 2-4 col. 3 line 46 to col. 4 line 48). The system then "provid[es] specific incentives to the viewer based on said embedded information including information indicative of one or more sponsors of the broadcast" (Figure 2-4 Col 2, Lines 5-7, Col 3, Lines 46-50 and Col 4, Lines 14-21).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Methany et al. with other types of programming including "broadcasts without commercial interruption" for the purpose of providing a means to encourage viewers to pay attention to TV programs.

It is unclear from Matheny et al. whether or not the "embedded information includes information indicative of one or more sponsors of the broadcast" such as a sponsor name. Matheny et al. explicitly incorporates by reference US application serial No. 09/345,223 (now US Pat No. 7,103,904)(Col 5, Lines 20-25). Blacketter et al., in conjunction with its usage of advertising templates teaches that it is known in the art for "embedded information" such as triggers to "include information indicative of one or more sponsors of the broadcast" such as the sponsor name (Col 3, Lines 25-30; Col 5, Lines 13-15). Accordingly, it would

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have been obvious to one having ordinary skill in the art at the time the invention was made to modify Matheny et al. using the teachings of Blackketter et al. for the purpose of providing for customization of interactive content in a manner that conserves bandwidth (Blackketter et al.: Col 3, Lines 7-16).

However, the above combination does not specifically teach collecting the viewer information without prompting the user for feedback.

In an analogous art pertaining to the field of television, Williams et al. discloses providing coupons to a network device without prompting the user for feedback (Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Matheny et al. and Blackketter et al. using the teachings of Williams et al. for the purpose of gathering user data without interruption.

In regard to claim 3, the 'You Should Know Better, Mr. Spielberg' article provides evidence that it is known in the art of television broadcasting to "allow content to be broadcast without commercial interruption" yet still be sponsored by companies. However, the evidence of the particular species of 'broadcast programming' is silent with respect further providing incentives to viewers to watch.

In an analogous art pertaining to the field of television, Methany et al. discloses a system and method to encourage viewers to pay attention to television programs. The method comprises "embedding information along with the broadcast content, said embedded information including information that allows viewer information to be determined, the viewer information including information indicative of an amount of the broadcast viewed by a remote viewer, specific incentives and links to the specific incentives being associated with the amount of the broadcast viewed by the viewer" and "broadcasting said content with said embedded information to a remote viewer of the content, the embedded information enabling a remote computer to retain the information indicative of one or more sponsors of the broadcast, and to determine the viewer information further including a user identifier and the information indicative of an amount of the broadcast viewed by the remote viewer, specific incentives being based in part on the amount of the broadcast viewed by the remote viewer " (Figures 3 and 4 Col 4, Lines 21-36, Col 2, Lines 48-55, Col 2, Lines 39-42, Col 2, Lines 5-7 and Col 3, Lines 46-66). The remote computer is 'enabled to retain' by virtue of having received the information autonomously.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Methany et al. with other types of programming including "content without commercial interruption" for the purpose of providing a means to encourage viewers to pay attention to TV programs.

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It is unclear from Matheny et al. whether or not the "embedded information includes information indicative of one or more sponsors of the broadcast" such as a sponsor name. Matheny et al. explicitly incorporates by reference US application serial No. 09/345,223 (now US Pat No. 7,103,904)(Col 5, Lines 20-25). Blackketter et al., in conjunction with its usage of advertising templates teaches that it is known in the art for "embedded information" such as triggers to "include information indicative of one or more sponsors of the broadcast" such as the sponsor name (Col 3, Lines 25-30; Col 5, Lines 13-15). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Matheny et al. using the teachings of Blackketter et al. for the purpose of providing for customization of interactive content in a manner that conserves bandwidth (Blackketter et al.: Col 3, Lines 7-16).

However, the above combination does not specifically teach collecting the viewer information without prompting the user for feedback.

In an analogous art pertaining to the field of television, Williams et al. discloses providing coupons to a network device without prompting the user for feedback (Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Matheny et al. and Blackketter et al. using the teachings of Williams et al. for the purpose of gathering user data without interruption.

In regard to claim 4, Matheny teaches "obtaining the stored embedded information so as to determine said viewer information" (Col 3, Lines 56-66) and "sending the links to the specific incentives to said viewer based on said viewer information " (Figures 2-4 Col 4, Lines 14-48). Williams teaches "the viewer information being determined without prompted viewer feedback provided by the remote viewer as part of remote viewer participation in an interactive reward program" (Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5).

Claims 5-6 and 7-8 are met by that discussed above for claims 2-4.

In regard to claims 9-10, the recited limitations are met by that discussed above for claims 2-4 except the reference fails to explicitly disclose creating a Web page containing links to all sponsor incentive websites and to specific incentives and sending said Web page back to said viewer; however, the applicant's admission of fact provides evidence that it notoriously well know in the art to use a web page so as to facilitate the organization of URLs. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matheny with the use a web page so as to facilitate the organization of URLs.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on Monday - Friday, 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

JRS